

PREVAILED

Roll Call No. \_\_\_\_\_

FAILED

Ayes \_\_\_\_\_

WITHDRAWN

Noes \_\_\_\_\_

RULED OUT OF ORDER

## HOUSE MOTION \_\_\_\_\_

MR. SPEAKER:

I move that Engrossed Senate Bill 263 be amended to read as follows:

- 1       Page 1, between the enacting clause and line 1, begin a new  
2 paragraph and insert:  
3       "SECTION 1. IC 11-10-5-5 IS ADDED TO THE INDIANA CODE  
4 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
5 1, 2009]: **Sec. 5. (a) Notwithstanding IC 22-2-5-2, the correctional**  
6 **institution and:**  
7       **(1) an employee if there is no representative described under**  
8 **subdivision (2) or (3) for that employee;**  
9       **(2) the exclusive representative of its certificated employees**  
10 **with respect to those employees; or**  
11 **(3) a labor organization representing its noncertificated**  
12 **employees with respect to those employees;**  
13 **may agree in writing to a wage payment arrangement.**  
14       **(b) A wage payment arrangement under subsection (a) may**  
15 **provide that compensation earned during a school year may be**  
16 **paid:**  
17       **(1) using equal installments or any other method; and**  
18 **(2) over:**  
19       **(A) all or part of that school year; or**  
20 **(B) any other period that begins not earlier than the first**  
21 **day of that school year and ends not later than thirteen**  
22 **(13) months after the wage payment arrangement period**  
23 **begins.**

1 Such an arrangement may provide that compensation earned in a  
 2 calendar year is paid in the next calendar year, so long as all the  
 3 compensation is paid within the thirteen (13) month period  
 4 beginning with the first day of the school year.

5 (c) A wage payment arrangement under subsection (a) must be  
 6 structured in such a manner so that it is not considered:

7 (1) a nonqualified deferred compensation plan for purposes of  
 8 Section 409A of the Internal Revenue Code; or

9 (2) deferred compensation for purposes of Section 457(f) of  
 10 the Internal Revenue Code.

11 (d) Absent an agreement under subsection (a), the correctional  
 12 institution remains subject to IC 22-2-5-1.

13 (e) Wage payments required under a wage payment  
 14 arrangement entered into under subsection (a) are enforceable  
 15 under IC 22-2-5-2.

16 (f) If an employee leaves employment for any reason, either  
 17 permanently or temporarily, the amount due the employee under  
 18 IC 22-2-5-1 and IC 22-2-9-2 is the total amount of the wages earned  
 19 and unpaid.

20 (g) Employment with the correctional institution may not be  
 21 conditioned upon the acceptance of a wage payment arrangement  
 22 under subsection (a).

23 (h) An employee may revoke a wage payment arrangement  
 24 under subsection (a) at the beginning of each school year.

25 SECTION 2. IC 12-24-3-5 IS ADDED TO THE INDIANA CODE  
 26 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 27 1, 2009]: Sec. 5. (a) Notwithstanding IC 22-2-5-2, the state  
 28 institution and:

29 (1) an employee if there is no representative described under  
 30 subdivision (2) or (3) for that employee;

31 (2) the exclusive representative of its certificated employees  
 32 with respect to those employees; or

33 (3) a labor organization representing its noncertificated  
 34 employees with respect to those employees;

35 may agree in writing to a wage payment arrangement.

36 (b) A wage payment arrangement under subsection (a) may  
 37 provide that compensation earned during a school year may be  
 38 paid:

39 (1) using equal installments or any other method; and

40 (2) over:

41 (A) all or part of that school year; or

42 (B) any other period that begins not earlier than the first  
 43 day of that school year and ends not later than thirteen  
 44 (13) months after the wage payment arrangement period  
 45 begins.

46 Such an arrangement may provide that compensation earned in a  
 47 calendar year is paid in the next calendar year, so long as all the

1 compensation is paid within the thirteen (13) month period  
2 beginning with the first day of the school year.

3 (c) A wage payment arrangement under subsection (a) must be  
4 structured in such a manner so that it is not considered:

5 (1) a nonqualified deferred compensation plan for purposes of  
6 Section 409A of the Internal Revenue Code; or

7 (2) deferred compensation for purposes of Section 457(f) of  
8 the Internal Revenue Code.

9 (d) Absent an agreement under subsection (a), the state  
10 institution remains subject to IC 22-2-5-1.

11 (e) Wage payments required under a wage payment  
12 arrangement entered into under subsection (a) are enforceable  
13 under IC 22-2-5-2.

14 (f) If an employee leaves employment for any reason, either  
15 permanently or temporarily, the amount due the employee under  
16 IC 22-2-5-1 and IC 22-2-9-2 is the total amount of the wages earned  
17 and unpaid.

18 (g) Employment with the state institution may not be  
19 conditioned upon the acceptance of a wage payment arrangement  
20 under subsection (a).

21 (h) An employee may revoke a wage payment arrangement  
22 under subsection (a) at the beginning of each school year."

23 Renumber all SECTIONS consecutively.

(Reference is to ESB 263 as printed April 3, 2009.)

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Representative Cheatham